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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,788	01/11/2005	Ilan Halachmi	04435/LH	8480
1933	7590	05/08/2006	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/500,788	<b>Applicant(s)</b> HALACHMI ET AL.	
	<b>Examiner</b> Son T. Nguyen	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.  
     4a) Of the above claim(s) 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 20-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**SON T. NGUYEN**  
**PRIMARY EXAMINER**

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/6/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Applicant's election without traverse of group I, claims 1-15,20-26 in the reply filed on 2/27/06 is acknowledged. Claims 16-19 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group I, there being no allowable generic or linking claim.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1-15,20-26** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1-5,7,10-13,15,20,22-26, it is unclear if the transmitter is attached to a hind part or not since claims 1 & 20 appeared to positively recite that it is but claims 2-5,7,10-13,15,22-26 recite that is it only "adapted to or attachable", which is functional/intended use language. Regarding claims 6 & 14, it is unclear how an electronic ear tag is to be attached to the hind leg or hind part of the animal because claims 6 & 14 depend on claims 1,2,5,8,13, which claim that the transmitter is to be mounted to a hind leg. How would an ear tag be mounted to a hind leg?

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-15,20-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sissom et al. (5996529) in view of Birk (6363883) and Ensor et al. (6111508).

For claims 1-3,5-8,10-11,13,15, Sissom et al. teach a system for identifying a ruminant being milked, said system including: a transmitter being a transponder tag (800) attached to an ear of the ruminant and operable to transmit a predefined signal identifying the ruminant to which said transmitter is attached; and at least one teat cup (inherent in the teaching of Sissom since the invention deals with milking operation which has to include teat cups) positionable on a teat of the ruminant being milked and an antenna (603) affixed to the stall where the animal is to be milked, said antenna operable to receive the predefined signal and to provide the signal via a receiver device to a processor for interpreting the predefined signal thereby identifying the ruminant being milked. However, Sissom et al. are silent about the transmitter attached to a hind part of the ruminant, and the antenna affixed to the at least one teat cup.

Ensor et al. teach the same field of endeavor of animal identification comprising a transmitter that is attached to a hind part, such as a leg, of an animal by using a strap (col. 3, lines 13-17). It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the transmitter of Sissom et al. on the hind part of an animal as taught by Ensor et al., depending on the user's preference to place the transmitter where it is most convenient and least obstruction to the animal.

Birk teaches the same field of endeavor of animal identification comprising a camera (8) and light source (6) affixed to teat cups to send signal (which is similar to what an antenna does) back to the computer for identification of the animal part. It would have been obvious to one having ordinary skill in the art at the time the invention was made to affix the

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antenna of Sissom et al. to the teat cups as taught by Birk instead of to the stall, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

For claims 4 & 12, it is uncertain if the strap of Sissom et al. as modified by Ensor et al. & Birk (emphasis on Ensor) is elastic. One would tend to think so because the strap in Ensor is designed to wrap around a leg of an animal, thus, has to be elastic or adjustable to different animal leg size. In any event, even if not, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the strap of Sissom et al. as modified by Ensor et al. & Birk be elastic in order to allow adjustment according to the animal leg size.

For claims 6 & 14, Sissom et al. as modified by Ensor et al. & Birk (emphasis on Sissom et al.) teach an electronic ear tag (col. 4, lines 58-60).

For claim 9, Sissom et al. as modified by Ensor et al. & Birk (emphasis on Sissom et al.) further teach a stationary interrogation unit comprising a transmitter and a receiver (col. 14, lines 1-13, col. 18, lines 14-17).

For claims 20-23,25-26 Sissom et al. teach a method for identifying a ruminant, said method including the steps of: attaching a means for collecting milk (inherent in the teaching of Sissom since the invention deals with milking operation which has to include teat cups) to a teat of a ruminant, the means for collecting milk having an antenna (603) affixed to the stall where the animal is to be milked; affixing a transmitter having a transponder (800) to a hind part of the ruminant, the transmitter transmitting a predefined signal identifying the ruminant; receiving the transmitted predefined signal by the antenna; and transferring the predefined signal via a receiver device to a processor

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which processes the signal and identifies the ruminant on which the means for collecting milk is attached. However, Sissom et al. are silent about the antenna affixed to the means for collecting milk, and the transmitter affixed to a hind part of the ruminant.

Ensor et al. teach the same field of endeavor of a method for animal identification comprising the step of affixing a transmitter that is attached to a hind part, such as a leg, of an animal by using a strap (col. 3, lines 13-17). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the step of affixing the transmitter of Sissom et al. to the hind part of an animal as taught by Ensor et al., depending on the user's preference to place the transmitter where it is most convenient and least obstruction to the animal.

Birk teaches the same field of endeavor of a method for animal identification comprising the step of affixing a camera (8) and a light source (6) to teat cups to send signal (which is similar to what an antenna does) back to the computer for identification of the animal part. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the step of affixing the antenna of Sissom et al. to the teat cups as taught by Birk instead of to the stall, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

For claim 24, it is uncertain if the strap of Sissom et al. as modified by Ensor et al. & Birk (emphasis on Ensor) is elastic. One would tend to think so because the strap in Ensor is designed to wrap around a leg of an animal, thus, has to be elastic or adjustable to different animal leg size. In any event, even if not, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the strap of Sissom et al.

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as modified by Ensor et al. & Birk be elastic in order to allow adjustment according to the animal leg size.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889.

The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Son T. Nguyen  
Primary Examiner  
Art Unit 3643

stn